

**MEMORANDUM ENDORSEMENT**

In Re: Elizabeth Thomas

7:22-cv-03666-NSR

18-B-23676 (CGM)

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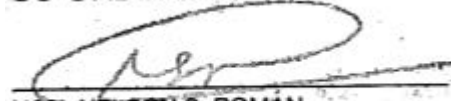
The Court is in receipt of the attached “Unopposed Motion for Voluntary Dismissal of Appeal” filed by the Appellants James Allen and Robert I. Thomas (“Appellants”), dated December 5, 2022.

The Court DENIES the motion without prejudice. The Court notes that the motion does not attach an affidavit from the Appellants nor from counsel, and that the motion incorrectly cites to the Federal Rules of Appellate Procedure rather than the Federal Rules of Bankruptcy Procedure. The Court directs Appellants to refile their motion under the correct rule, the Federal Bankruptcy Rule 8023, and to attach an affidavit from the Appellants regarding their wish to voluntarily dismiss their bankruptcy appeal.

The Clerk of the Court is kindly directed to terminate the motion at ECF No. 32.

Dated: December 9, 2022  
White Plains, NY

SO ORDERED:

  
HON. NELSON S. ROMAN  
UNITED STATES DISTRICT JUDGE

Civil Action No. **22-cv-03666**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK  
WHITE PLAINS: DIVISION**

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**JAMES ALLEN AND ROBERT L. THOMAS**

*Appellants,*

**v.**

**PRIMARY RESIDENTIAL MORTGAGE INC.**

*Appellee.*

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**On Appeal from the United States Bankruptcy Court  
for the Southern District of New York; White Plains Division  
Judge Cecelia G. Morris U.S.B.J.  
Bankruptcy Case No. 18-23676**

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**UNOPPOSED MOTION FOR VOLUNTARY  
DISMISSAL OF APPEAL**

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By /s/ Colleen M. McClure  
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**ATTORNEY FOR APPELLANTS**

**TO THE HONORABLE JUDGE OF SAID COURT:**

James Allen and Robert L. Thomas (the “Appellants”) files this “Unopposed Motion for Voluntary Dismissal of Appeal” pursuant to Federal Rules of Appellate Procedure Rule 42(a).

Pursuant to Federal Rule of Appellate Procedure 42(a), James Allen and Robert L. Thomas (the “Appellants”) move for voluntary dismissal of this appeal. The parties in this case are solely James Allen and Robert L. Thomas (the “Appellants”) and Primary Residential Mortgage Inc., (the Appellees).

Non-Party Debtor Elizabeth Thomas is not named or designated as party to the bankruptcy proceedings or to this Appeal. Non-Party J.P. Morgan Chase Bank N.A. is not named or designated as party to the bankruptcy proceedings or to this Appeal.

James Allen and Robert L. Thomas (the “Appellants”) have submitted a brief however Primary Residential Mortgage Inc., (the Appellees), has chosen not to participate in the Bankruptcy proceedings or to participate in this appeal. As such there is no party to oppose this Motion.

Dated: December 5, 2022.

Respectfully submitted

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**ATTORNEY FOR APPELLANTS**

**CERTIFICATE OF COMPLIANCE**

I hereby certify that this motion complies with the requirements of Federal Rule of Appellate Procedure 27(d)(2)(A) because it contains 427 words, as counted by Microsoft Word and excluding the material exempted by Federal Rule of Appellate Procedure 32(f).

I also certify that the motion complies with the requirements of Federal Rules of Appellate Procedure 32(a)(5)-(6) because it has been prepared in a proportionately spaced typeface using Microsoft Word Times New Roman 14-point font.

By/s/**Colleen M. McClure**

**CERTIFICATE OF SERVICE**

I hereby certify that on December 5, 2022, a true and correct copy of the foregoing instrument has been served by ECF-E-file service on the Clerk of the Court as Primary Residential Mortgage Inc., the designated Appellee of record is not participating in this appeal.

By/s/Colleen M. McClure